

STATEMENT OF
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BEFORE
THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON VETERANS AFFAIRS
SUBCOMMITTEE ON BENEFITS
HEARING ON THE DEPARTMENT OF VETERANS AFFAIRS'
FIDUCIARY AND FIELD EXAMINATION ACTIVITY
JULY 16, 2003

Mr. Chairman and Members of the Subcommittee, I am pleased to be here today to highlight some of our efforts to protect our nation's veterans and to identify and eliminate fraud, waste, abuse, and mismanagement in the Department of Veterans Affairs' (VA) fiduciary and field examination program.

Unlike other fraud perpetrated against the Department, fiduciary fraud targets individuals who are unable to protect themselves. My office provides program oversight of the fiduciary program activity through audits, Combined Assessment Program evaluations, Hotline referrals, and investigations.

In May 1997, we issued an audit report titled *Audit of Appointment and Supervision of Fiduciaries* (Report No. 7R5-B13-074). The audit found that the Department could provide more effective supervision of fiduciaries to reduce the risk of theft or misuse of beneficiaries' funds. The Department needed to strengthen their monitoring of fiduciaries by following up on questionable or inconsistent data submitted in the fiduciaries accounting, independently verifying beneficiaries' assets, and requiring documentation supporting selected expenses reported by fiduciaries.

Another report, published in September 1997, titled *Completeness of Data in the Veterans Benefits Administration's Fiduciary Beneficiary System* (Report No. 7R5-B13-129) found that the Department's Fiduciary Beneficiary System did not include records for all incompetent beneficiaries whose financial affairs must be monitored by VBA personnel. These beneficiaries did not have records because

responsible personnel overlooked, or were unaware of, applicable policies and procedures, or because personnel made clerical errors. Establishment of appropriate Fiduciary Beneficiary System records would help fiduciary program personnel monitor the financial affairs of incompetent beneficiaries and reduce the risk of theft or misuse of the beneficiaries' funds. We recommended that the regional offices ensure that any beneficiaries, whose financial affairs must be monitored, are included in the Fiduciary Beneficiary System and receive appropriate supervision.

The Department agreed with our recommendations and provided us with their implementation plans for these two reports. However, we are once again identifying similar program weaknesses during our recent reviews.

To ensure ongoing oversight of VA's operations including the Department's fiduciary and field examination program activity, I extended our Combined Assessment Program (CAP) to the VA's regional offices. Regional office CAP reviews provide management independent and objective evaluations of key programs, activities, and controls.

As a result of lessons learned from prior audits and investigations, we targeted CAP coverage of VA's fiduciary and field examination activity to focus on high-risk areas vulnerable to fraud and irregularities by fiduciaries. We also review various aspects of field examiners' performance where past history has resulted in instances where the veterans' welfare could be compromised. During CAPs, we also conduct fraud and integrity awareness briefings to raise employee awareness of fraudulent activities that can occur in VA benefit programs. Our CAPs have identified investigative leads, systemic weaknesses, and vulnerabilities in the fiduciary and field examination program areas and conditions that require additional management attention.

For the period of June 2000 through September 2002 we conducted CAPs at 19 VA regional offices. We reviewed VA's fiduciary and field examination activity at 18 of the 19 facilities. At 10 of these 18 regional offices, we identified improvements needed in the management of fiduciary and field examination program activity.

Some of the more significant and recurring problems my staff has identified during CAP reviews are:

- Field examinations and reports of income, expenses and assets (referred to as fiduciary accountings) have not been conducted in a timely manner, resulting in backlogs of pending field examinations at some facilities. In some instances backlogs resulted because staffing resources were insufficient.
- We also found instances where field examiners did not adequately evaluate the physical and mental condition of the beneficiary or assess the

beneficiary's home environment. For example, one report noted the field examiner did not inspect the veterans' housing and another report contained no evidence that the field examiner took any action after finding the beneficiary lived in deplorable living conditions.

- During one CAP review, we identified a field examiner who did not adequately address the physical, mental, or environmental conditions of the beneficiary. A letter received by a VARO counselor on August 11, 1998, alleged that the beneficiary had a drug abuse problem resulting in numerous incarcerations for drug use and prostitution, and that the assets of the beneficiary were being used by and for the fiduciary. The following field examination did not address the issues raised in the August 11th letter, nor did the field examiner offer the beneficiary a referral to a health care facility to assess her condition. We were informed that the field examiner did not know of the issues raised because he did not have access to the original complaints and had not reviewed the Principal Guardianship Folder.
- During another CAP review, we identified a field examiner who did not visit incompetent veterans and falsified the field examination reports. VA regional office management informed us that this particular field examiner did not always visit the incompetent veterans assigned to him. He resigned prior to our CAP review, after admitting that he had falsified field examination reports. As a result, we recommended that the 166 veterans, who were allegedly visited by this field examiner during his last 14 months of employment, should be given top priority for follow-up examinations.

We made recommendations in our CAP reviews to ensure that:

- Adequate staff is assigned to ensure that field examinations and fiduciary accountings are completed timely.
- VA's field examiners conduct thorough field examinations.
- Field examiners file and distribute field examination reports appropriately.
- Fiduciary accountings are reviewed within 14 days of receipt and appropriate follow-up actions are taken, when necessary.
- VA's staff follow-up on delinquent fiduciary accountings.

An aggressive field examiner program is instrumental in exposing fraud, particularly in the fiduciary program. During our 2002 review of benefits paid to veterans in the Philippines, we noted that the Manila VA regional office had ten field examiners who spent a large portion of their time verifying fiduciary data to prevent fraud. The potential for fraud in the Philippines is high because of the lack of effective public records systems and a lack of a reliable communications system to easily verify a claimant's information. During our benefit review, we noted that the Manila VA regional office's focus on exposing fraud using field examiners helped to prevent and avoid large losses to beneficiaries.

A strong field examiner program is essential and the program in the Philippines is a good example of a successful program. I cannot overstate the importance of hiring and training a competent, professional force of field examiners and their impact on exposing fraud.

The OIG Hotline also receives allegations of fiduciary and field examination irregularities. During the period of June 2000 to June 2003, my Hotline Division received 79 allegations concerning fiduciary and field examination activity. Of these 79 allegations, we found that 20 were substantiated and 13 cases remain under inquiry. For the remaining 46, we determined the allegations were unfounded.

Typical examples of hotline allegations that we substantiated include instances where a fiduciary did not provide a veteran with adequate quality of care or ensure adequate living conditions. We have also found instances where a fiduciary was negligent managing veteran's expenses and bill payments and instances where veterans' funds were misappropriated and misused.

Referrals of fiduciary fraud to my Office of Investigations staff are usually received through the VAOIG Hotline, CAP reviews, or from VBA field personnel in the regional offices. Unlike other frauds perpetrated against VA, fiduciary fraud targets the most vulnerable, those particularly incapable of handling their own affairs. Whether the perpetrator is an attorney or a relative of the victim, the act remains the same, embezzlement of money due the veteran. We have received 231 fiduciary case referrals and 126 criminal cases open for investigations, which resulted in 37 arrests and monetary recoveries of more than \$2 million in restitution, fines, penalties, and civil judgments.

The following examples of recent cases illustrate the nature of the allegations received and investigations we perform.

- In one egregious case, we found that an attorney, who was appointed as conservator for the estates of several veterans receiving VA and Social Security Administration (SSA) benefit payments, embezzled over \$400,000 for his own personal use. As a result of our investigation, this attorney was convicted and sentenced to 12 months of home confinement, 3 years' supervised release and was ordered to pay \$490,625 in restitution.
- In another significant case, we investigated an individual appointed as fiduciary for VA and SSA beneficiaries and determined the individual embezzled over \$200,000. As a result of our investigation, he was convicted and sentenced to 32 months' incarceration, 3 years' supervised release, and was ordered to pay \$214,745 in restitution to VA and SSA. He was also ordered to reimburse the Government \$89,929 in fees that he had earned as a fiduciary.

- A former attorney, appointed the fiduciary for a World War II disabled veteran, was sentenced to 18 months' imprisonment, 3 years' probation and ordered to pay restitution of \$133,500 after being convicted of embezzeling the veteran's funds for his own use. Investigation had disclosed that the attorney, soon after being appointed fiduciary, had begun withdrawing large sums of money from the veteran's bank account to pay personal expenses.
- In another investigation, a veteran's sister, who was acting as the veteran's fiduciary, was convicted after pleading guilty to filing false statements relating to annual fiduciary accounting reports filed during a 4-year period when the veteran was incarcerated. The veteran's mother, appointed his fiduciary in 1989, was assisted by the veteran's sister in falsifying the annual fiduciary accountings. They diverted the majority of the \$92,400 total payments VA made for themselves. The veteran's sister was sentenced to 5 years' probation and ordered to repay VA restitution of \$70,466.

The Department has been responsive to the issues we have identified in our CAP reports and progress is being made to reduce the pending number of field examinations. VBA has reported an improvement of field examination timeliness from 84% in FY 2001 to 91% for FY 2002. However, program oversight of fiduciary and field examination activity remains necessary to protect beneficiaries from fiduciary mismanagement of their funds, irregularities and fraud. We are committed to continue our collaborative efforts with VBA to ensure the integrity of this most critical benefit program.

This completes my statement Mr. Chairman. I would be pleased to answer any questions you and the Committee may have.